

**Shadow Report concerning Torture against Haratines in Mauritania
to the UN Committee Against Torture**

**Minority Rights Group International
SOS Esclaves**

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Introduction:

- a. Minority Rights Group International (MRG) welcomes the opportunity to provide information to assist the UN Committee against Torture (CAT) at its 50th Session from 6 to 31 May 2013 in its review of Mauritania.
- b. MRG is a Non-Governmental Organisation (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. MRG has consultative status at the UN Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights. MRG is registered as a charity in the United Kingdom.
- c. SOS-Esclaves (SOS Slaves) has been leading the fight against slavery in Mauritania for over 14 years. It seeks to expose the realities of the practice, challenge its widespread acceptance and defend the rights of those seeking to escape slavery. It also works to end discrimination faced by people of slave descent.
- d. The information set out below is based on research and work of MRG and its partner SOS-Esclaves, regarding torture against Haratines in places of detention in Mauritania as a consequence of discrimination. We believe constitute violations of several articles under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter "Convention against Torture"). Although MRG welcomes the submission of Mauritania's report to the CAT, overdue since 2005, it is necessary to highlight that cases of torture against members of the Haratine community still take place in detention facilities in Mauritania, and these cases are directly related to the discrimination they face as former slaves.

Background:

- a. Mauritania signed and ratified the Convention against Torture on the 17 November 2004, with reservations on Articles 20 and 30 of the Convention.
- b. Mauritania signed the Optional Protocol to the Convention against Torture on 27 September 2011 and ratified it on 3 October 2012 with no reservation.

- c. The economy and the vast majority of the administrative state in Mauritania are controlled by the white Moors, also known as Berber Arabs or Beydan. Historically, they raided, enslaved and assimilated people from a range of sedentary black ethnic groups along the Senegal River, who are known today as the Haratine or Black Moors. The term ‘Haratine’ is a euphemism among the Berber Arabs to refer to slaves and people of slave descent. Although slavery affects all groups in Mauritania, the Haratine are the group most likely to be living in slavery. This is despite the 2007 Anti-Slavery Law prohibiting slavery and related discrimination in Mauritania¹, which has been lacking in implementation. This is also documented by the fact that no prosecutions have been initiated after the introduction of the law in 2007. After a visit to Mauritania in 2009, the Special Rapporteur on Contemporary Forms of Slavery was unequivocal in qualifying the situations she encountered in Mauritania as slavery, stating that it results in the ‘social death of many thousands of women and men’.
- d. It should be underlined that the practice of slavery in Mauritania violates all human rights. In addition, Haratine who are no longer in slavery (the majority) face discrimination relating to their status as descendants of slaves and have limited access to and even less control over resources such as land, education, water, health services, etc. Since slavery was abolished and criminalised, the Government of Mauritania has claimed that this practice is no longer institutionalised; however, criminalising a practice does not necessarily lead to its eradication. Slavery persists and is manifested in the cultural and social layers of society and is perpetuated in several forms. The Special Rapporteur on Slavery underlined that slavery-like practices such as “forced early marriages; serfdom; worst forms of child labour, such as children who are forced to beg; trafficking; and domestic servitude, which affects men, women, boys and girls” still take place in the country, although they are not recognised as contemporary forms of slavery by the majority of the population.²

¹ Loi n° 2007 – 048 du 3 septembre 2007 portant incrimination de l'esclavage et réprimant les pratiques esclavagistes

² A/HRC/15/20/Add.2, para 37.

Documented Legal Cases of Torture against Haratines currently before the Court in Mauritania:

Hasane Ould Hadih, Naji Ould Ajeh and Mamadou Diallo: three victims of torture while in prison, of whom one is dead (Hasane Ould Hadih). The acts of torture were perpetrated against the three prisoners on 30 September 2012. The perpetrators have admitted their actions and affirmed that physical violence is an established practice against prisoners, especially if they belong to the Haratine community. The guards have all been arrested. The case is before the court in Nouakchott.

Article 2, paragraph 1: *Each State Party shall take effective, legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*

- a. Practices of torture or ill-treatment against Haratines have been registered in the country, as highlighted by the cases mentioned above of Hasane Ould Hadih, Naji Ould Ajeh and Mamadou Diallo. In its General Comment on Article 2, the CAT highlights that “non-discrimination is included within the definition of torture itself in article 1, paragraph 1, of the Convention, which explicitly prohibits specified acts when carried out for ‘*any reason based on discrimination of any kind...*’”. Mauritania does not have legislation that specifically prohibits acts of torture and has not included a final definition of torture in the laws of the country, as stated in its Initial Report to the CAT. This legislative gap enables the continued use of torture, especially against the most vulnerable groups of society, including Haratine.
- b. The CAT General Comment No. 2 on the Implementation of Article 2 by States parties (para. 21) also reiterates the principle that “the protection of a certain minority or marginalised individuals or populations especially at risk of torture is part of the obligation to prevent torture or ill-treatment”. One particular problem which MRG and SOS-Esclaves have identified is that the Government of Mauritania has not instituted any form of disaggregated data collection with regard to victims of slavery in particular and the Haratine community more generally. Such data should be gathered both in terms of ethnicity and gender. Having disaggregated data in this field would be very useful to combat discrimination generally and also identify persons belonging to the Haratine community who are in detention or imprisoned and at risk of torture or ill-

treatment, as also noted by CAT in its General Comment No. 2.³ This would therefore help the prevention of torture in detention, as discriminatory attitudes and practices could be tackled and the authorities would be recording, with a view to investigating and prosecuting acts of torture or ill-treatment against members of the Haratine minority.

Article 11: *Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.*

- a. The Government of Mauritania, in its Initial Report submitted to the CAT, dedicated a paragraph on the progress achieved in the country in relation to Article 11 of the Convention. MRG welcomes the good practices that are in place in Mauritania; however, it is important to underline the remaining challenges under the fulfilment of this article of the Convention in relation to the situation of the Haratine community in the country. In the initial report of Mauritania, there is no specific reference on the situation of minorities in prison and their representation in places of detention. This shortcoming can also be related to the lack of ethnic and gender disaggregated data, which consequently hampers the possibility of assessing the presence of minorities and minority women at risk of and/or subject to torture or other ill-treatment in prison. This is most clearly shown by the recent cases of Hasane Ould Hadih, Naji Ould Ajeh and Mamadou Diallo, who were tortured while being held in prison; the violence perpetrated against them was exacerbated by their minority status. There are therefore no measures in place in order to keep track of the conditions in which Haratine detainees and prisoners are kept and especially whether they are being exposed to treatment differing from the rest of the detainees and prisoners belonging to other ethnic groups.

Article 20 and Article 30.

- a. The Government of Mauritania has expressed reservations on Article 20 and 30 of the Convention against Torture. Article 20 focuses on the authority of the CAT to invite the cooperation of the State Party in examining information which appears to contain well-founded indications of torture in the country and make this information available to the Committee. Furthermore, the CAT may designate one

³ General Comment No. 2, para. 22.

or more of its members to make a confidential enquiry and report to the Committee in cases of alleged practice of torture in the country.

- b. Concerns around the reservation to article 20 are justified by the fact that cases of torture or ill-treatment against members of minority groups may be perpetrated with impunity in Mauritania, if no international mechanism has the authority to investigate and ask for accountability in such cases.
- c. Article 30 of the Convention against Torture provides for the possibility for States Parties in dispute over its interpretation to address the International Court of Justice. The non-recognition of the authority of the International Court of Justice to provide assistance in disputes over the interpretation of the Convention represents a challenge to the protection of the rights contained therein, especially for the most marginalised groups of society, including Haratines.

Recommendations to the Government of Mauritania:

1. Introduce the use of disaggregated data for the assessing the impact that social and cultural discrimination has in relation to cases of torture or ill-treatment, as also underlined in the General Comment No. 2 of the Convention against Torture. MRG reiterates the need of specific mentioning of minorities and women in official reports in order to systematically track cases of torture or ill-treatment against minorities, especially minority women, in places of detention and prisons.
2. Introduce a clear definition of torture in the legislation that takes into account torture as a consequence of discrimination specifically related to minority groups.
3. Hire personnel from minority groups in positions related to custody, law enforcement, prosecution and judicial fields both within institution and private sector, in order to reduce discrimination against minority groups and minority women in particular, and therefore reduce the cases of incidence of torture against these groups (in line with CAT General Comment No. 2 to the Convention).
4. Withdraw reservations on Articles 20 of the Convention against Torture in order to render the process of investigation more transparent and enable the CAT to be involved in investigating cases of torture or ill-treatment. This is particularly important as there are records of cases of torture in prison of members of the Haratine minority community.

5. MRG encourages the Government of Mauritania to withdraw its reservation on article 30 of the Convention against Torture and accept the authority of the International Court of Justice in cases of dispute with one or more State Parties around the interpretation of the Convention. This would further enhance the application of internationally accepted standards of human rights, in particular the prohibition against torture, especially with regard to members of minorities, specifically Haratine.